

**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

Chapter 6	Number 19	Effective Date 01/27/05	Review Date 2009
Subject RECEIPT/TRANSMITTAL OF LEGAL PAPERS AND LAWSUIT PAPERS FOR EMPLOYEES			☐ New Order ☒ Replaces O.O. 701-8 (11/07/03)
References VA Code §15.2-1711 Richmond City Code 2-37 <i>City of Richmond Administrative Regulation 3.3</i> VLEPSC OPR.12.01			
 Chief of Police or Designee		01/27/05 Date	

I. PURPOSE

The purpose of this Order is to establish the policy and procedure for the receipt and transmittal of ***all legal papers and all*** lawsuit papers instituted by or brought against members of the Richmond Police Department and claims against the City of Richmond. This Order consists of the duties and responsibilities for Department members.

II. POLICY

- A. All employees of the Department shall complete a "Request for Witness Subpoenas" including their correct full names and addresses of their current duty assignment in every case in which they are involved as the arresting officer or as a witness.
- B. All employees of the Department shall include or assure the inclusion of their correct full name, current duty assignment and specific address on any criminal warrant or traffic summons prior to the issuance of any such criminal warrant or traffic summons.
- C. It is the policy of the City of Richmond to ensure accurate acceptance, dissemination and accountability for all legal papers requesting court appearances for employees of the Department. A "Master Sheet" indicating the name of each officer named in any accompanying legal paper must accompany legal papers delivered to the Department. Legal papers will not be accepted without a "Master Sheet".
- D. It shall be the policy of the Richmond Police Department that whenever any lawsuit, regardless of its nature, is instituted by or against any member of the Richmond Police

Department that it be immediately brought to the attention of the Office of the **Inspector General**, and in certain cases, the Attorney for the City of Richmond.

III. **DEFINITIONS**

- A. ***Legal Papers – all Court Summonses, Warrants, Witness Subpoenas to appear either in court or for a deposition and Subpoenas Duces Tecum for either a civil matter or a criminal matter and whether issued by a Court or by an attorney. The definition of Legal Papers does not include Lawsuit Papers.***
- B. ***Lawsuit Papers – any papers that initiate a lawsuit.***

IV. **PROCEDURE**

- A. Receipt of Legal Papers:
 - 1. The Police Information Desk shall ***accept service of ONLY those legal papers issued for employees assigned to Police Headquarters (HQ). Legal papers for any personnel not assigned to Police HQ shall be directed to the location where such personnel are assigned.***
 - a) ***During normal business hours, the OIC of the Information Desk or his/her designee shall notify the appropriate personnel that legal papers need to be picked up as soon as possible.***
 - b) ***After normal business hours, the Information Desk shall contact Unit 9. Unit 9 shall make the decision to take possession of the legal papers or to notify the appropriate personnel for pick-up.***
 - 2. Officers and employees working at the precincts ***and/or other non-HQ facilities must be served at their location. Precinct Commanders and the OIC of all divisions shall designate in writing the person(s) responsible for administering acceptance of all legal papers.***
 - 3. The individual ***that first receives*** the legal paper shall ***do the*** following:
 - a) Check each legal paper for the court date.
 - b) Compare each legal paper with the master sheet.
 - c) Sign and date/time stamp the master sheet.
 - d) Give a copy of the master sheet to the bearer.
 - e) If there are any irregularities on the legal papers, note them on the legal paper and the master sheet and return them to the bearer.
 - f) ***For Subpoena Duces Tecum (SDT) ONLY:***

In addition to a-e above, the individual that first receives the SDT shall do the following:

- 1) Immediately notify the Office of the Inspector General of receipt.***
- 2) Write the name and address of the person serving the SDT.***
- 3) Write the date, time and location of service; and,***
- 4) Write the name of the person receiving service.***

4. Separation and distribution of papers are handled in the following manner:
 - a) Determine assignment location, platoon or special unit of each employee.
 - b) Make copies of the master sheet for each assignment location, platoon or special unit.
 - c) Forward the original master sheet to the O-I-C of the Central Records Unit ***or the respective OIC.***
 - d) Separate papers according to the officer's assignment location, platoon or special unit.
 - e) Place a copy of the master sheet with each assignment location, platoon or special unit.
 - f) Write the assignment location, platoon or special unit name on the copy of each master sheet.
 - g) Highlight the officer's names on the master sheets for each assignment location.
 - h) Place the master sheet copies and papers in the appropriate folder.
 5. ***Personnel may accept subpoenas in civil matters on behalf of another officer or employee because service is complete at the time of acceptance by the first officer and at that point, the officer is merely giving the subpoena to the officer it was issued to.***
 6. ***For purposes of measuring the time line for any legal papers that must be responded to within a certain time period, the time line begins to run and the paper is considered served when the first person in the police department accepts service.***
- B. Daily Receipt of Legal Paper:
1. Supervisors are responsible for picking up legal papers on a daily basis and logging them into their appropriate ledger on the day that they are received.

The Officers-in-Charge of any unit, or their designee, shall pick up the legal papers from the Police Information Desk for their assigned personnel.

2. The responsible supervisor shall:
 - a) Review all legal papers contained within the appropriate folder.
 - b) Place a check mark **and the date** by each name on the master sheet indicating acceptance of the legal paper.
 - c) Sign his/her name on the ledger in the appropriate space.
 - d) If a legal paper was included for an employee no longer assigned to the particular area, the employee responsible for receiving the legal papers shall note the employee's current assignment and correct address on the legal paper and the master sheet and the legal paper shall be returned to the Police Information Desk personnel.
 - e) After the supervisor has received the legal paper, he/she shall:
 - (1) Deliver the legal papers on a daily basis back to his/her unit
 - (2) Separate the legal papers according to the subject employee's assignment, platoon or special unit
 - (3) Check the appearance date
 - (4) Enter the below listed information into the ledger book for each legal paper:
 - (a) The employee's name for whom the paper was issued
 - (b) The date and time received
 - (c) The type of process (civil or criminal)
 - (d) The type of document (summons, subpoena)
 - (e) The name of the originating court
 - (f) The name of the Plaintiff and Defendant
 - (g) The supervisor's name
 - (h) The supervisor's date of assignment
 - (i) The type of service (personal)
 - (j) The date of service (or return date)

- (k) The court docket number, if available
- (5) Serve the legal paper upon the subject employee at least two days prior to the scheduled appearance date.
- (6) If the subject employee is presently on duty, but is scheduled to have the next few days off, the supervisor shall contact the employee and request him/her to pick up the legal paper before going off duty.
- (7) If the subject employee is off duty, and will still be off duty past the appearance date, the supervisor shall:
 - (a) Attempt to contact the subject employee by phone, pager or in person and inform him/her of the legal paper.
 - (b) If unable to contact the subject employee, the responsible party shall pass this responsibility on to the relief supervisor until the subject employee is contacted or until two days prior to the scheduled appearance date. The date(s) and time(s) of the notification attempts shall be documented.
 - (c) If the subject employee has not been informed of the legal paper by the day that falls two days prior to the scheduled appearance date, the supervisor or relief supervisor shall notify, by phone, the Clerk of the Court who issued the legal paper that it was not appropriately served upon the subject employee and shall return it to that same Clerk with an explanation for non-execution written on the legal paper.

C. Receipt of Lawsuit Papers:

1. ***Lawsuits Instituted against Department Employees as a Result of Official Duties:***
 - a) ***In any legal action brought against a Department member, service of process shall be directed to such officer or employee. Another employee shall not accept service of process, except as authorized by the individual to whom the service of process is directed. Service of process directed to any other City official or employee, on behalf of the City, shall be refused.***
 - b) ***Upon receipt of any court papers, relating to any lawsuit which arises out of or concerns the performance of official duties, employees shall immediately hand carry such papers to the Office of the City Attorney no later than the next business day following receipt. This shall include any follow-up or support papers.***
 - c) ***Department members shall immediately, upon receipt of any lawsuit papers relating to any lawsuit that arises out of or concerns the performance of official duties, compile and attach a PD-100 (Lawsuit Papers). Officers***

shall immediately hand-carry a copy of the papers and the PD-100 to the Office of the Inspector General. Follow-up and support papers need not be forwarded unless requested.

- d) *Federal rules allow for service of process by mail in certain instances. If an employee receives mailed service of process, the employee shall contact the Officer of the Inspector General before returning an acknowledgment of receipt of service.*
- e) *Before accepting service of any Lawsuit papers, the employee shall do the following:*
 - 1) *Check the style of the case (i.e., xx v. yy) to see who is named as the defendant.*
 - 2) *If the only named defendant is the Richmond Police Department or City of Richmond Police Department, then DO NOT ACCEPT SERVICE. Direct the process server to the City Attorney's Office. (NOTE: The Richmond Police Department is not the proper party to be sued it should be City of Richmond.)*
 - 3) *If the defendant(s) named is the Chief of Police or someone assigned to the Chief's Office, call the Office of the Inspector General to accept service.*
 - 4) *If the defendant named is another police employee, refuse service and direct the process server to the location of the employee OR call/page the employee and tell them they have lawsuit papers to be served on them.*

2. Lawsuits Instituted against Department Members Not as a Result of Official Duties:

- a) In any legal action brought against **an employee**, service of process shall be directed to such officer or employee. **Another employee shall not accept service of process**, except as authorized by the individual to whom the service of process is directed. **Service of process directed to any other City official or employee, on behalf of the City, shall be refused.**
- b) Department personnel shall immediately, upon receipt of any lawsuit papers under this section, **compile and attach a PD-100 (Lawsuit Papers)**. Hand-carry **the PD-100 and a copy of the lawsuit papers** to the Office of the **Inspector General**. Follow-up and support papers need not be forwarded unless requested.
- c) The City Attorney need not be notified in these cases unless so directed by the **Office of the Inspector General**.

- d) If a Department member is sued personally and he/she believes that they are entitled to legal representation and expenses to be provided by the City, the officer or employee must submit a written request to the City Attorney in accordance with City Code section §2-37 and VA Code §15.2-1711 and must abide by all the terms and conditions set forth in those sections.
 - e) The employee shall also provide the Office of the **Inspector General** with a copy of the request.
 - f) VA Code §15.2-1711 will only apply if a criminal investigation, arrest, indictment and/or other prosecution arises from the civil lawsuit.
3. Upon service of any Lawsuit Papers, the employee accepting service shall write the following information in ink on the front of the papers served:
- a) Full name and address of the person serving the papers.
 - b) Time, date and place of the service.
 - c) Full name of the person receiving the service of process.
4. Lawsuits Initiated by Department Members:
- a) A Department member shall immediately notify the **Office of the Inspector General** by completing and delivering a PD-100 whenever he/she initiates legal proceedings against a party as a result of an act that occurred while the member was performing his/her official duties. In addition, the Department member shall immediately hand-deliver a second copy of the PD-100 to the City Attorney's Office.
 - b) A Department member shall immediately notify the **Office of the Inspector General** by completing and delivering a PD-100, whenever he/she files any lawsuit, as the result of any act not related to an official police action (i.e. personal lawsuits).

D. Cases Where the City is Party to a Civil Suit:

- 1. When the City is party to a civil case, such as an accident on City property, damage to City property, accidents involving City-owned vehicles, etc., and an **employee** must appear as a witness, the following procedure will apply:
 - a) A copy of the **subpoena** issued by the City Attorney's **Office or a copy of the City Attorney's Office's letter requesting** the Clerk **issue a subpoena** will be forwarded to the Department and to the respective **employee(s)**.
 - b) The employee(s) will sign beside his/her name indicating receipt and acknowledging the fact of his/her probable involvement as a witness in a civil case. The procedure for getting this document to the affected **employee**

will be the same as outlined in the foregoing provisions of this policy and procedure.

2. ***The City Attorney's Office will attempt to advise the employee that it is likely he/she will be subpoenaed as a witness as far in advance as possible.***
 3. The Office of the City Attorney has advised the Department that should the case be settled prior to court, his/her office will notify the affected ***employee(s)***.
 4. The Information Desk will not accept ***legal papers or lawsuit papers*** from Civilian Process Servers for personal civil suits. Process Servers ***for personal civil suits shall*** be directed to the subject ***employee's*** current assignment location. ***Employees shall not accept service of legal papers for personal civil suits on behalf of another employee unless the employee to whom the lawsuit and/or legal papers are issued so authorizes.***
- E. Claims against the City of Richmond:
1. An employee shall never accept a claim against the police department or the City.
 2. ***The employee shall advise the*** claimant that the proper procedure, under state law, for filing a claim is by filing it in writing with the City Attorney's Office (or with the Mayor or City Manager). The claimant can also be advised to call the Office of the City Attorney for information on the requirements of the written notice.
 3. City employees are advised that no employee is to make a statement, however trivial, concerning facts relating to any claim against the City. In all cases, the employee should respectfully advise any inquirer that all matters concerning claims must be discussed with the Law Department.
- F. It shall be the responsibility of all ***Supervisors*** to ***ensure*** that this Policy and Procedure is strictly adhered to and understood by all of their subordinate personnel.